

CS1.5 Abuse and Neglect

Purpose

1. The United Nations' Convention on the Rights of Persons with Disabilities (the UN Convention) states that a person with disability has the right to liberty, security and freedom from abuse and neglect, and where these rights have been violated, to have equal recognition by law and access to justice.
2. SAVVY is committed to upholding these rights and SAVVY's duty of care by providing an environment free of abuse and neglect. This policy sets out SAVVY's principles and approach to achieving this through minimising the risk of abuse and neglect.
3. The policy specifically outlines SAVVY's approach to identifying, preventing, intervening, reporting and managing reports of abuse and neglect.

Alignment with Practice Standards

1. Module 1: Rights and Responsibilities
2. Module 2: Provider Governance and Operational Management

Legislative Alignment

1. National Disability Insurance Scheme Act 2013
2. Disability Discrimination Act 1992
3. NSW Disability Inclusion Act 2014
4. Children and Young Persons (Care and Protection) Act 1998
5. Child Protection (Working with Children) Act 2012
6. Child Protection (Offenders Regulation Registration) Act 2000
7. Protected Disclosures Act 1994
8. Guardianship Act
9. Victims' Rights and Support Act 2013
10. United Nations Convention on the Rights of the Child 1989

Key Responsible Executive

Chief Executive Officer

For More Support

Chief Executive Officer

Policy Statement

1. SAVVY's policy reflects the person centred approach outlined in the NSW Guidelines on Abuse and Neglect. This involves;
 - a. providing positive support for people to exercise choice and control over their lives, by facilitating and maintaining relationships and connection to communities
 - b. listening and learning to understand the way people communicate, including their communication preferences and wishes
 - c. keeping people informed about what is going to happen before taking action and throughout any response to abuse and neglect
 - d. ensuring that people with high support needs and/or communication difficulty are well supported to enable detection and prevention of abuse and neglect
 - e. providing information in a format that supports the person, and as relevant, their family and friends, to identify and report abuse or neglect
 - f. ensuring appropriate physical, emotional and psychological support is available to and easily accessible by a person following an allegation or report of abuse or neglect
2. SAVVY understands that prevention is the best form of protection and will implement prevention strategies that include suitable recruitment screening processes and protocols for identifying the risk indicators for abuse and neglect
3. SAVVY also commits to;
 - a. treating and responding to any allegation seriously, with sufficient urgency given the severity of the matter
 - b. users will never be negatively impacted as a result of concerns relative to reporting and/or providing feedback
4. Barriers to reporting instances of abuse, neglect, exploitation and violence are removed by creating a culture that is open, accepting and responsive to feedback, complaints and incident notifications.

Definitions

1. Abuse – Refers to sexual assault, physical, emotional, financial and systemic abuse, domestic violence, constraints and restrictive practices and neglect.
2. Assault – Any attempt or threatened attempt to cause unwanted immediate physical contact or bodily harm that puts the victim in fear of such harm or contact.
3. Duty of Care – A requirement a service provider has, to take reasonable care to avoid foreseeable harm to a person.
4. Advocate – A person who promotes, supports and represents the rights and interests of the service user. This may be a family member, friend, advocacy service or legal Guardian.
5. Adult – A person aged 18 years or over.
6. Guardian – A substitute decision maker with authority to make personal or lifestyle decisions about the person under guardianship. A Guardian is legally appointed for a specified period of time and is given specific functions defined in the Guardianship Order.
7. Person Responsible – Is someone who has the authority to provide consent for an adult who is unable to give valid consent, for example in relation to their own medical or dental treatment.

8. Support Person – In the context of this policy, the support person does not have the same function as the person responsible and will not make decisions for the service user. The support person may be a member of staff who is known and trusted by the service user, a Police Officer, a sexual assault worker, a legal representative of a legal service or advocacy service.

Delegations

Roles	Responsibilities
Board of Directors	<ul style="list-style-type: none"> • Endorse and ensure compliance with the Abuse and Neglect Policy and procedures • Be familiar with legislative requirements of this policy
CEO	<ul style="list-style-type: none"> • Keep the Board informed of serious incidents as these occur • Ensure appropriate authorities are notified, as relevant • Communicate progress with the investigation of relevant parties • Manage and monitor compliance with this policy • Support staff competence and compliance with this policy and procedure
Management	<ul style="list-style-type: none"> • Manage and monitor compliance with this policy • Support staff competence and compliance with this policy and procedure
Staff, volunteers, contractors and students	<ul style="list-style-type: none"> • Comply with the Abuse and Neglect Policy and Procedure • Identify and respond to service users at risk of harm and acts in accordance with this policy and procedure • Ensure service users are protected from further harm • Complete incident forms within specified timeframe

Procedures

1. Identify
 - a. Abuse and neglect can be observed, reported to SAVVY either by the participant or any person in connection to the participant, or a SAVVY employee might suspect abuse or neglect without directly observing this or being informed
 - b. It is important that all staff at SAVVY understand the types of abuse and neglect that can occur, potential signs of abuse and neglect, prevention strategies, way of empowering participants to identify and self-report incidents of abuse or neglect and know how the employee should report abuse or neglect. Abuse and Neglect is a training module all employees cover during induction, and periodically as a reminder of the importance to SAVVY and to keep this front of mind
 - c. In addition to employee training, all services are regularly supervised to identify areas for employee development or potential issues
 - d. SAVVY's person centred approach prioritises the empowerment and self determination of participants, meaning that through working with SAVVY, SAVVY always aims to increase a participant's communication and self advocacy skills and confidence in order to be in control of their supports
2. Prevent

- a. SAVVY's first step in prevention is to implement background checks and effective employee screening. This includes;
 - i. National Criminal History Record Check
 - ii. Working with Children Check (for employees working with or in the vicinity of children or young people)
 - iii. Qualification and professional association checks
 - iv. Background employment and character reference checks
- b. Employees are then educated on current policies and legislation in relation to abuse and neglect to understand;
 - i. why this is critical to SAVVY's duty of care and our participants human rights
 - ii. what abuse and neglect might look like
 - iii. their responsibility (and steps to take) to report this internally and externally where necessary
 - iv. how to provide immediate support to a participant who is at risk of or subjected to abuse or neglect
- c. SAVVY's culture, policies and procedures focus on a person centred approach which puts participants at the centre of decision making.
 - i. participants are encouraged and supported to have an open dialogue with SAVVY employees about their needs, objectives and preferences at all times
 - ii. participants are supported to develop their communication skills, in order to feel confident and empowered to provide feedback, voice their concerns and share their decisions
 - iii. Identifying barriers for participants sharing feedback or reporting incidents including abuse or neglect, and putting in place strategies to reduce and remove these barriers. These barriers could include;
 - Limited education and training opportunities
 - Isolation
 - Fear
 - Persona's history
 - Language and communication
 - Views of disability or sexuality
 - Access to mainstream supports
- d. SAVVY promotes and encourages community inclusion and social participation as core to their service offering. While not intended solely to reduce instances of abuse and neglect, SAVVY recognises the importance of this in reducing some risks of abuse and neglect and reducing some barriers to reporting of potential abuse or neglect.
- e. SAVVY acknowledges that restrictive practices are a form of neglect that needs particular attention, particularly from the perspective of SAVVY employees applying these practices. SAVVY is committed to reducing and eliminating where possible the use of restrictive practices and therefore considers positive behaviour support plans a form of prevention to ensure employees are using best practice supports that lead to the elimination of a restrictive practice. More information can be found in SAVVY's Restrictive Practices Policy. SAVVY considers the following to be incidents of abuse;
 - i. any use of a prohibited practice
 - ii. any use of an unauthorised restrictive practice
 - iii. the use of authorised restrictive practices where these are not the least invasive option and are not used as the last resort in managing a behaviour of concern.

3. Early Intervention
 - a. SAVVY refers to early intervention as the activity and supports that aim to minimise the risk of abuse or neglect or the impact of any potentially existing abuse or neglect.
 - b. SAVVY's focus is on increasing the capability of the participant to make their own decisions and communicate, in order to give the participant more agency over their life.
 - c. Secondly, SAVVY has a focus on increasing social inclusion and community participation which reduces some of the barriers often linked to the occurrence of abuse and neglect and the ability of a person to report this.
 - d. Once an employee suspects the potential for or actual abuse or neglect, this is discussed with their supervisor to consider what course of action should be taken. This may include;
 - i. a review of the participants care plan and risk assessment to identify if there are appropriate supports to address the participant's ability to communicate any concerns and particular areas of vulnerability
 - ii. schedule a supervised support session where the supervisor can provide additional support to the employee who has raised the concern or employee the concern has been raised against
 - iii. referral to a specialist support or medical service (with the participant's consent)
 - iv. discussion with participant about supports delivered and interest
 - v. communication with other support services currently engaged in providing services to the participant
4. Reporting
 - a. Procedure
 - i. Any incident of abuse or neglect while in SAVVY care is reported to the NDIS Commission as a reportable Incident. See Incident Response and Management Policy for further details.
 - ii. Where the abuse is in relation to a child (0-15 years) or young person (16-17 years), the Child Protection Hotline should also be contacted to determine if the incident needs to be reported by calling 132 111.
 - iii. If the participant is living in a shared home, the incident should also be reported to the NSW Ombudsman.
 - b. Responsibility and expectation: These are outlined in the Incident Response and Management Policy.
 - c. Remove barriers to disclosure: Incident reporting at SAVVY is managed as a confidential matter and particularly in cases related to abuse and neglect. We ensure that participants and employees are free from retribution when reporting any incident, including abuse and neglect as we believe this is the only way to ensure all stakeholders feel free to report incidents to SAVVY.
 - d. Where a crime has been committed (e.g. physical or sexual assault) staff are not to contact or confront the alleged person as this could jeopardise any criminal proceedings.
 - e. The Service Manager will advise the Police or sexual assault service immediately. SAVVY will fully cooperate with the Police who have primary responsibility for investigating the allegations.
 - f. The Service Manager seeks advice from Police in relation to management of the issue. Advice received from the Police is documented and reported to the CEO/Manager before close of business that day.
 - g. Domestic violence, emotional, financial and systemic abuse or neglect may be reported to the Police. Notify your supervisor as soon as possible to determine the action to be taken.
5. Protecting evidence for Police
 - a. Staff at the scene must use their best endeavours to ensure that any evidence the Police may require in their investigation is not disturbed. Evidence may be lost if a victim of sexual assault bathes soon after the assault. Try to delay bathing until the Police arrive if the victim is not distressed by the delay.

- b. If possible, preserve the victim's clothing as evidence following an assault of any type. Also, if possible isolate the area where the incident occurred and do not allow anyone to enter the area until the Police arrive.
 - c. Apart from ascertaining their physical condition and state of mind, avoid questioning participants about the incident to reduce contamination of their recall and confusion about the events.
6. Responding to a report of neglect and abuse
- a. SAVVY reports incidents and allegations of abuse or neglect within 24 hours to the NDIS Commission. SAVVY also responds to all reports from participants, their family, guardians or other support person within 24 hours to provide insight into how the report will be investigated and managed. This is done with support given to participants and notification to their family, guardian or other support person.
 - b. Where appropriate, the incident is reported to the NSW Police. In emergencies where there is imminent risk of severe danger to the participant or employee, the employee should call 000. In non emergencies, the decision to report any potential or real instance of abuse or neglect to the police will be made in consultation with the participant and where appropriate their parent, guardian or other support person. If the supervisor is unsure of whether to report the incident, they should contact the NSW Police on 131 444 for advice.
 - c. The SAVVY employee, with the support of their Supervisor / Service Manager will ensure medical care is provided, including transfer to a hospital by an ambulance if necessary, and referral to a Sexual Assault Service, if the assault is of a sexual nature.
 - d. When the victim is unable to give consent, the family, guardian or other support person will be notified of the incident as soon as possible.
 - e. If it is appropriate and the victim has given consent, the family, guardian or other support person is informed of the allegation of abuse or neglect as soon as possible after the report is made
 - f. Safety of the alleged victim is maintained throughout the investigation.
 - g. All parties are encouraged and assisted to access appropriate support following an allegation of abuse or neglect.
7. Privacy and confidentiality
- a. The promise of complete confidentiality cannot be given to any person who raises a concern about the abuse of a service user. Privacy law mandates the disclosure of a service user's personal information without consent in situations where:
 - i. There may be reasonable grounds to believe that a serious crime or offence has been committed or may be committed and a criminal investigation by Police may be required.
 - ii. Disclosure is in the service user's interest (e.g. if the service user is suicidal) or where the safety of others is at risk.
 - iii. There may be a duty to warn a third party who may be in danger.
 - b. SAVVY shall communicate and cooperate with the Police and other Government agencies in responding to the abuse of a service user.
 - c. Staff must adhere to the Privacy and Confidentiality Policy and Procedure and only disclose information lawfully by:
 - i. Sharing information on a need to know basis.
 - ii. Maintaining trust and respect for privacy between all parties involved.
 - iii. Advising service users from the beginning what the limits to confidentiality are.
 - iv. Keeping a record of any information shared between agencies in responding to abuse of a service user.
8. Resolution
- a. SAVVY will address the nature and impact of the incident or allegation from a person's perspective. This will help to determine whether the person has experienced abuse or neglect, a breach of rights and trauma as a separate and equal consideration.

- b. SAVVY will follow its Incident Response and Management policy to follow through on investigation and de-briefing (learning from the reporting) to inform a longer term response for those impacted and on the design and delivery of SAVVY services.
9. Staff training and support
- a. All service delivery staff and volunteers are provided with formal and on-the-job training to foster recognition of any signs of abuse and a response appropriate to their role.
 - b. Resource materials and checklists are also provided to staff listing the common behaviours and physical signs that a service user may show in response to abuse. These include, but are not limited to those outlined in the Policy attachments:
 - i. Patterns of Abuse and Neglect
 - ii. Types of Abuse
 - c. The Service Manager is available to assist staff in understanding the information and to explain terminology or other assistance required.
10. Consent
- a. Consent from the service user must be sought prior to informing family members, receiving medical treatment (with the exception of first aid and urgent lifesaving treatment) or the Police to conduct a forensic procedure.
 - b. For consent to be valid it must be voluntary, informed, specific and current. Where the service user cannot give valid consent, a legally appointed Guardian or the person responsible may give or withhold consent. When a service user is a victim and has a legally appointed Guardian with a specific function to make decisions about receiving medical treatment or forensic procedure, consent is to be sought from the Guardian.
 - c. Where the service user is suspected of a crime, only a Magistrate (or another authorised officer) can provide consent when the service user is incapable of understanding the general nature of a forensic procedure or withhold consent for that procedure, as per the Crimes (Forensic Procedures) Act.
 - d. A decision by a service user or responsible person not to inform the service user's family does not preclude SAVVY from reporting the abuse/alleged abuse to relevant authorities such as the Police.
11. Responding to abuse of a service user by a member of staff
- a. All incidents and allegations of abuse are documented and reported to the CEO immediately.
 - b. All reasonable steps are taken to ensure that the service user is protected from further harm by preventing contact with the alleged offender.
 - c. Any allegation of abuse by a member of staff towards a service user will be subject to internal investigation and by the Police. If it is found that a member of staff has abused a service user the matter may warrant dismissal of the staff member by SAVVY, as well as any action taken by the Police.
 - d. If another staff member accompanies the offender to the police station to provide support, the staff member must not give any opinion about the offender or the alleged incident or give the offender legal advice. The staff member should be replaced by an independent support person or a legal adviser as soon as possible.
12. Abuse by another service user
- a. When one service user is suspected or known of abuse towards another service user, staff must ensure that the rights of both service users are observed during the response and reporting process. Any decisions made in relation to managing the incident must be fully documented for further reference, along with the reason for the decision and the name and contact details of the person making the decision.
 - b. The worker, in consultation with management must ensure that the wishes of the victim and the offender are followed in relation to advising family, guardian or other support person about the incident, where they are capable of making this known. When the victim and/or

offender are not capable then the Service Manager will notify the appropriate person of the incident as soon as possible and within five (5) hours of the report being made.

- c. The worker in consultation with management will facilitate access to appropriate support, where practical, for both service users, their families and staff and ensure they have information about available services.
- d. If management reasonably believes that the incident between the two service users is abuse or assault the matter must be referred to the Police.

13. Support for service users

- a. The victim, family or other support person should be assisted to access any debriefing, counselling, legal or other support services if that is their wish. Service users who are victims of abuse and their families or guardians should be referred to NSW Victims Services to be advised of their rights and the support services that are available to them. They can be contacted via the below options;
 - i. Victims Access Line: 1800 633 063
 - ii. Aboriginal Contact Line: 1800 019 123
 - iii. National Relay Service (Ask for Victims Services) on 1800 633 063.
 - Teletypewriter/voice calls: 133 677
 - Speak & Listen: 1300 555 727
 - Website: relayservice.gov.au/making-a-call
 - iv. Translating and Interpreting Service Phone: 131 450
 - v. Website: www.tisnational.gov.au
- b. CEO will facilitate access for victims and their families of violent crimes who may be eligible to apply for counselling with the Approved Counselling Service provided by Victims Services.
- c. Staff must ensure that service users, both victim and offender, are adequately supported by an independent person, who could be a relative, friend, advocacy service or legal practitioner.
- d. The victim, family, guardian or other support person will have the choice of pursuing the matter through the legal system and must be supported to access the services and advice they require.
- e. Information provided to a service user, guardian or other support person about legal rights, options and support services, must be provided in a format that suits their individual communication needs.

14. Support for staff

- a. Staff should be offered a debriefing session within 24 hours of the incident occurring. This could be conducted internally or externally.

15. Documentation

- a. It is imperative that comprehensive and accurate documentation is maintained in the interest of all parties and to ensure accountability and transparency in decision-making.
- b. A detailed written report should be completed as soon as possible to ensure it is an accurate record of the incident. The report should include:
 - i. The nature and extent of the incident – this should be completed as soon as possible after the event and be an exact record of events
 - ii. Notes from discussions with supervisor and staff
 - iii. Any feedback or correspondence with Police
 - iv. Notes of conversations with the service user and family members
 - v. Names and contact details of all those involved, particularly relating to decisions that are made as a result of the incident
 - vi. The response to the person making the allegations
 - vii. Any ongoing actions required to resolve the matter
 - viii. The outcome, although depending on the nature of the incident this may be delayed, and

- ix. The date and signature of the person making the report
16. Managing risk
- a. Staff must assess the risk of further incidents and update any risk management plans pertaining to the event and the service users involved. This includes reviewing the Service User Risk Profile of any service users involved in the incident to assess and manage the risk of further incidents of abuse

References to other SAVVY policies and external sources

- 1. Org2.4 Registration and licensing of staff
- 2. Org2.5 Employment screening
- 3. Org2.7 NDIS reportable incident response and management
- 4. WHS2.1 Working safely with participants
- 5. CS1.1 Human rights
- 6. CS1.3 Decision making and choice
- 7. CS1.4 Privacy and confidentiality
- 8. CS5.1 Restrictive practices and behaviour support

Summary of attachments

- 1. CS1.5a Patterns of Abuse and Neglect
- 2. CS1.5b Types of Abuse and Neglect

Version Control

- 1. 1 April 2023 - New Policy Creation